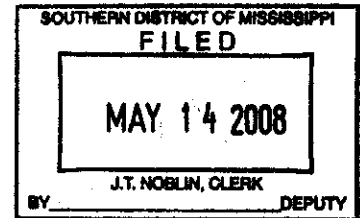


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
(JACKSON DIVISION)  
*SOUTHERN*

DR. MARY HAMEL-SCHWULST  
AND JACQUELINE CARR,  
INDIVIDUALLY AND AS GENERAL  
AND MEDICAL POWER OF ATTORNEY FOR  
DR. MARY HAMEL-SCHWULST,  
PLAINTIFFS

CIVIL ACTION: 1:08cv195 LG -RHLW



VERSUS

COUNTRY PLACE MORTGAGE LTD  
D/B/A COUNTRY PLACE LIMITED TEXAS  
PARTNERSHIP, CASPER KOBLE, JOHN  
WILLIAMS, JR., PALM HARBOR HOMES,  
INC., U.S. TITLE & REAL ESTATE CLOSING  
SERVICES, INC., JEFFERY NEGROTTO,  
PEIRSON/PATTERSON LLP  
DEFENDANTS

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PETITION FOR DECLARATORY JUDGMENT  
COMPLAINT FOR VIOLATIONS UNDER REAL ESTATE SETTLEMENT  
PROCEDURES ACT AND MISSISSIPPI MORTGAGE CONSUMER  
PROTECTION LAW

An actual controversy has arisen and now exists relating to the rights and duties of the parties to the above entitled action, in that plaintiff, Dr. Mary Hamel-Schwulst has executed a Modular Earnest Money Contract and Mandatory Arbitration Agreement with Palm Harbor Homes, Superstore #630, Highway 49, North Gulfport, MS 39502 and has obtained financing for an FHA insured loan for her modular home from its 80%- owned subsidiary Country Place Mortgage LTD, a Texas limited partnership through its Mississippi licensed originators, Casper Koble, and John Williams, Jr., for Country Place Mortgage Ltd., regulated

**under the Mississippi Department of Banking and Finance, Mississippi Mortgage Consumer Protection Act, Mississippi Secretary of State Corporate Division.**

**U.S. Title and Real Estate Closing Services, Inc., a Florida corporation licensed to do business in the State of Mississippi, through its President, Jeffery Negrotto, Notary Public, closed the FHA loan for \$102,515.00, November 26, 2007, in the Sales Office of Palm Harbor Homes, Inc., 16144 Highway 49 North, Gulfport, MS 39503, by the execution of a Mississippi Deed of Trust and Gulf Breeze, Florida note by Dr. Mary Hamel-Schwulst, encumbering 242 Woodman Avenue, Pass Christian, MS.**

#### **JURISDICTION**

**Jurisdiction exists in this Honorable Court under the Real Estate Settlement Procedures Act "RESPA", FEMA, Federal Emergency Management Act, the Declaratory Judgment Act, 28 U.S.C.A Section 2201, and HUD/FHA, Agency Case #281-332-5602-703, Direct Endorsement Lender, CountryPlace Mortgage Ltd's case number #281-332-5602-703.**

#### **PLAINTIFFS/PARTIES TO THIS ACTION**

**I. Dr. Mary Hamel-Schwulst is a Citizen and domiciliary of Pass Christian, MS., the purchaser/borrower residing at 242 Woodman Avenue, Pass Christian, MS 39571, who suffers from an acute anxiety disorder and post traumatic stress disorder heightened by the complete destruction of her residence located at 242 Woodman Avenue, Pass Christian, Ms, August 29, 2005, in Hurricane Katrina..**

**II. Jacqueline Carr, individually, is a Citizen and domiciliary of Slidell, Louisiana, residing at 535 Cross Gates Blvd., and is the duly appointed General and Medical Power of Attorney for Dr. Mary Hamel-Schwulst, appointed under Mississippi Notarial Act, January 10, 2007, Gulfport, MS.**

**PARTIES DEFENDANTS TO THIS ACTION**

**IV. Country Place Mortgage Ltd., d/b/a CountryPlace Limited Partnership, a Texas limited partnership, a subsidiary and "lending arm" of Palm Harbor Homes Inc., a Direct Endorsement Lender for HUD/FHA is currently lacking in Good Standing in the State of Mississippi, although registered, due to the suspension in the State of Mississippi by the Mississippi Tax Commission and Mississippi Secretary of State Corporate Division, since June 2, 2004, for failure to pay franchise tax, and may be served with petition and process through its registered agent, CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.**

**V. Casper Koble, is a licensed loan originator in the State of Mississippi, doing business for CountryPlace Mortgage Ltd "Lender" at 115303 Dallas Parkway, Suite 900, Addison, Texas 7500-4600 and may be served through CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.**

**V. John Williams, Jr., is a licensed loan originator in the State of Mississippi, doing business for CountryPlace Mortgage Ltd. "Lender" at 115303 Dallas Parkway, Suite 900, Addison, Texas 7500-4600 and may be served through CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.**

**VI. Palm Harbor Homes, Inc. "Seller" is a corporation organized under the laws of the State of Florida, currently in "Good Standing" in the State of Mississippi as a foreign corporation, doing business at 16144 Highway 49 North, Gulfport, MS 39503, and may be served with petition and process through its registered agent for service of process, CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.**

**VII. U.S. Title and Services Closing, Inc. is a Florida, corporation, licensed in the State of Mississippi as a foreign corporation, doing business at 1616 26<sup>th</sup> Avenue, Gulfport, MS 39501, and may be served with Petition and Process through its registered agent, Ms. Deborah Brondum, 114 W Third Street, Long Beach, MS 39560.**

**VIII. Jeffery Negrotto is a commissioned Mississippi Notary Public, residing at 8756 Ortega Park Drive, Navarre, Florida 32566, and is the President and Closing Agent for U.S. Title and Services Closing, Inc., the HUD-1 Settlement Agent.**

**IX. Peirson Patterson LLP, 4400 Alpha Road, Dallas, Texas 75244 prepared the loan documents, and modification agreement, Mississippi Deed of Trust and Gulf Breeze, Florida note, for the HUD/FHA loan for Dr. Mary Hamel- Schwulst at 7% interest at the request of its client/lender, CountryPlace Mortgage, LTD, and may be served with Petition and Process under the Mississippi Long Arm Statute.**

### **MANDATORY ARBITRATION AGREEMENT**

**X.. The Mandatory Arbitration Agreement, attached as Exhibit "A", executed by Dr. Mary Hamel-Schwulst and George Stevens, General Manager for Palm Harbor Homes, Inc., November 5, 2007, is attached hereto and provides for mandatory arbitration *"that any and all controversies or claims arising out of, or in any way relating to, the Cash Sale Contract or the negotiation, purchase, financing, installation, ownership, occupancy, habitation, manufacture, warranties (express or implied), will be settled by arbitration."***

**XI. A dispute has arisen between CountryPlace Mortgage Ltd, Palm Harbor Homes, Inc., Dr. Mary Hamel-Schwulst, and her General and Medical Power of Attorney, Jacqueline Carr as to whether the financing portion of the transaction and all claims under the Real Estate Settlement Procedures Act, the HUD/FHA Act, Mississippi Mortgage Consumer Protection Law are within the exclusionary ambit of mandatory arbitration, or whether Federal law pre-empts under the Real Estate Settlement Procedures Act, FHA/HUD, FEMA, Federal Emergency Management Agency.**

**XII. A dispute has arisen between the loan originators, John Williams, Jr., Casper Koble, Dr. Mary Hamel-Schwulst, and her General and Medical Power of Attorney, Jacqueline Carr, Palm Harbor Homes, Inc., PeirsonPatterson LLP, Dallas, Texas attorneys, Lender CountryPlace Mortgage Ltd as to whether the \$150,000.00 Palm Harbor "Guadalupe" modular model purchased by Mary Hamel-**

Schwulst, November 26, 2007 meets FHA foundation qualifications by Direct Endorsement Lender, CountryPlace Mortgage Ltd. HUD/FHA has declined and failed to provide FHA insurance for the residence located in the Gulf Coast floodplain at 242 Woodman Avenue, Pass Christian, MS 39571 belonging to and inhabited by Dr. Mary Hamel-Schwulst, Katrina victim. FHA/HUD informs Borrower and Power of Attorney that the loan is "conventional." Palm Harbor Homes, Inc. has given to Dr. Mary Hamel-Schwulst a Builder's Warranty that the modular home is constructed to FHA/HUD specifications for a floodplain; however, the FHA appraiser, C & S Associates of Deer Park, Alabama, failed to appraise the residence located in the floodplain as "in the floodplain" and appraised more square footage than the "Guadalupe" model contains for a price tag of \$1,100.00 to Borrower. CountryPlace Mortgage Ltd "FHA Direct Endorsement Lender" has threatened to "call the loan," in the amount of \$87,515.00 for failure of the Builder to meet FHA standards in its construction, and Hamel-Schwulst to sign modification documents prepared by Peirson/Patterson, LLP, Dallas, Texas.

XIII. A dispute has arisen among U.S. Title and Closing Services, Inc, Jeffery Negrotto, Notary Public, CountryPlace Mortgage Ltd., Palm Harbor Homes, Inc., Dr. Mary Hamel-Schwulst, Jacqueline Carr, Power of Attorney, Peirson/Patterson LLP, attorneys, Bill Johnson, Attorney for CountryPlace Mortgage Ltd over violations of the Real Estate Settlement Procedures Act, Mississippi Mortgage Consumer Protection Act, and Mississippi real property law, in that Jeffrey Negrotto, Mississippi Notary Public, a non resident of Mississippi,

added two Florida witnesses to the Mississippi Deed of Trust and note, executed by Dr. Mary Hamel-Schwulst before Power of Attorney Jacqueline Carr after closing, November 26, 2007, and filed the altered document in the Mississippi Chancery Court Land Records, Gulfport, MS, providing an alleged "true copy" of the transaction to Dr. Mary Hamel-Schwulst (without witnesses) under the Real Estate Settlement Procedures Act. Plaintiffs dispute the validity of the altered and recorded Mississippi Deed of Trust and Gulf Breeze, Florida note, encumbering 242 Woodman Avenue, Pass Christian, MS, prepared by Peirson/Patterson, Dallas attorneys and further dispute the amounts charged as FHA mortgage initial premium and annual monthly premiums escrow "inflated" charges, insurance and tax charges by the owner and loan servicer, CountryPlace Mortgage Ltd.

XIV. The parties dispute the fact that ICC elevation funds, provided by Federal Emergency Management Agency to Dr. Mary Hamel-Schwulst, in the amount of \$30,000.00 for construction of a a substandard foundation, paid to Palm Harbor Homes, Inc. for an FHA approved foundation does not constitute a violation as FEMA fraud, pre-empting mandatory arbitration.

XV. The parties dispute the fact that private mortgage insurance can be mandated for a 52% loan, under Federal law.

XVI. Borrower/purchaser, Dr. Mary Hamel-Schwulst has put up her post Katrina land lot equity in the amount of \$55,000.00, the ICC elevation funds in the amount of \$30,000.00 and an initial deposit of \$40,000.00 of her own funds as "earnest money" for the \$150,000.00 purchase of the modular manufactured home from

**Palm Harbor Homes Inc., giving the "Lender" a 50% loan to value ratio on a Mississippi Deed of Trust, transferring ownership of the lot to "MERS", Mortgage Electronic Registration Systems, Inc. The foundation of a modular home is "everything," and the failure of the Builder, Palm Harbor Homes, Inc. to construct to FHA foundation standards calls the Builder, Palm Harbor Homes Inc. under Builder's Warranty to remedy the defects, in its construction, for the sales price of \$150,000.00. Borrower/Purchaser, Dr. Mary Hamel-Schwulst paid closing costs in the amount of nearly \$13,000.00.**

**XVII. The "Lender", CountryPlace Mortgage Ltd, owner and holder of the note in the amount of \$102,515.00, has failed to modify the loan balance and amortization schedule as per agreement for the application of an additional \$15,000.00 FEMA "ICC" funds, paid January 28, 2008, and demands that Borrower, Mary Hamel-Schwulst and/or Power of Attorney Jacqueline Carr, "sign off" on the modification of the invalid Mississippi Deed of Trust with Gulf Breeze, Florida note and excessive escrow charge items and mpi FHA Insurance, without rescission of the Mississippi Deed of Trust and Florida note, re-execution of documents according to Mississippi real property law, or suffer "acceleration of the note" and default for not executing modification agreement documents prepared by Peirson/Patterson attorneys of Dallas, Texas and/or CountryPlace Mortgage Ltd. For instance, Lender "attempts to charge" \$115.00 per month for tax assessment in the amount of \$228.00, or "default" the loan, and attempts to charge construction fees for work not performed, without providing cancelled checks to Borrower.**



**RELIEF SOUGHT**

- I. Declaration of the Rights and Duties of the Parties as to Mandatory Arbitration**
- II. Rescission of the Mississippi Deed of Trust and Florida note, for violations of Mississippi law, and Re-execution of Mississippi Deed of Trust and Mississippi note in the amount of \$87,515.00, balance due and owing, less and except monthly payments previously remitted and sums deposited in the registry of the Court.**
- III. Correction of the Escrow Charges and Mortgage Private Insurance under Real Estate and Settlement Procedures Act**
- IV. Remedy of the Defects in FEMA funded foundation to FHA specifications**
- V. Damages under Mississippi Mortgage Consumer Protection Law and Real Estate Settlement Procedures Act**
- VI. Allowance of deposit of monthly principal and interest in the amount of \$583.00 per month to avoid default and foreclosure of Mississippi Deed of Trust and Gulf Breeze Florida note pending prosecution of this litigation**
- VII. All other just and equitable relief this Court deems good and proper.**

Respectfully submitted,

  
MARY HAMEL-SCHWULST, Ph.D

Pro Se

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